

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN
CALIFORNIA GAS COMPANY For
Authorization to Establish a Revenue Sharing
Mechanism for the Production of Native Gas.
(U 904 G)

Application 04-01-034
(Filed January 26, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING NOTICES OF INTENT TO CLAIM COMPENSATION**

Summary

On May 27, 2004, The Utility Reform Network (TURN) and Local 483 of the Utility Workers Union of America (Local 483) filed their respective "Notice of Intent to Claim Compensation" (NOI) in the above-captioned proceeding. This ruling determines that TURN and Local 483 are eligible to file a claim for an award of compensation in this proceeding.¹

Background

Southern California Gas Company (SoCalGas) filed its application on January 26, 2004 to establish a revenue sharing mechanism for the production of native gas from its gas storage facilities and surrounding area.

¹ As discussed later in this ruling, Local 483's eligibility to file a claim for an award of compensation in this proceeding may be affected by the Commission's decision regarding the application for rehearing of Decision (D.) 03-12-058.

Pub. Util. Code § 1804(a)(1) provides that “[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference [PHC] is held, file and serve on all parties to the proceeding a notice of intent to claim compensation.”² The prehearing conference in this proceeding was held on April 27, 2004. Both NOIs were timely filed. No responses to the NOIs were filed.

Eligibility Requirements

Section 1804(a)(2) provides that a NOI is to include a statement of the nature and extent of the customer’s planned participation in the proceeding, and an itemized estimate of the compensation that the customer expects to request. In addition, the NOI may include a showing by the customer that participation in the proceeding would pose a significant financial hardship. If such a showing is made, the Administrative Law Judge (ALJ), in consultation with the Assigned Commissioner, is to issue a preliminary ruling addressing whether the customer will be eligible for an award of compensation. Since TURN and Local 483 have made a showing that its participation would pose a significant financial hardship, this ruling addresses their eligibility for intervenor compensation.

In D.98-04-059 (79 CPUC2d 628) the Commission directed that if a ruling is issued as a result of the filing of a NOI, that the ALJ rule on whether the intervenor is a customer as defined in § 1802(b),³ and which category of customer

² All code section references are to the Public Utilities Code.

³ A “customer” is defined in § 1802(b)(1) to mean: “(A) A participant representing consumers, customers, or subscribers of any electrical, gas, telephone, telegraph, or water corporation that is subject to the jurisdiction of the commission. (B) A representative who has been authorized by a customer. (C) A representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to

Footnote continued on next page

the intervenor represents. (79 CPUC2d at 649.) The type of customer category determines the standard of “significant financial hardship” that applies.

Footnote 1 of TURN’s NOI states that it is a “group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential ratepayers.” TURN has previously submitted the relevant portion of its articles of incorporation in other Commission proceedings. TURN meets the definition of customer as defined in § 1802(b)(1)(C).

Local 483 states that it is a non-profit labor organization, with a “long history of representing the interests of members who are employees and customers of California’s utilities.” (Local 483 NOI, p. 1.) Local 483 also states that “it believes it qualifies as a customer pursuant to § 1802(b)” as a “participant representing employees who are also consumers.” (*Ibid.*) The NOI also notes “that in Decision 03-12-058 ... the Commission ruled 4 to 1 that Local 483 should be granted eligibility to request Intervenor Compensation....” (*Id.* at p. 4.)

In D.03-12-058 the Commission found that Local 483 met all three definitions of a customer, as defined in § 1802(b). The Commission also concluded that “Local 483 is a customer as defined under § 1802(b) and therefore it is eligible for intervenor compensation.” (D.03-12-058, p. 16.) Since the Commission has already examined Local 483’s status as a customer for the purpose of determining eligibility for intervenor compensation, this ruling determines that Local 483 meets the definition of a customer as defined in § 1802(b)(1).

represent the interests of residential customers, or to represent small commercial customers who receive bundled electric service from an electrical corporation.”

An application for rehearing of D.03-12-058 was filed by Southern California Edison Company (SCE) on January 23, 2004. SCE challenges the determination in D.03-12-058 that Local 483 should be considered a customer. The Commission has not yet acted on SCE's rehearing application. Depending on the outcome of the rehearing application, this could affect Local 483's status as a "customer," and its eligibility to file a claim for an award of compensation in this proceeding.

The other requirements to address are the nature and extent of the customer's planned participation in the proceeding, and the estimate of compensation the customer expects to request.

TURN states that its focus in this proceeding concerns the issues of: "1) appropriate allocation of any proceeds from sale of native gas between shareholders, core customers and noncore customers; and 2) appropriate safeguards to ensure no harmful impacts on SoCalGas' existing natural gas storage fields due to production of natural gas from nearby or adjoining production basins." TURN also states that it reserves the right to address other issues related to the proposal.

Local 483 states that it plans to be extremely active in this proceeding, and expects to address most of the issues in this proceeding. Local 483 is particularly interested in the level and safety of service, the cost of service to ratepayers as it relates to the utilization or non-utilization of the existing workforce or facilities of SoCalGas, and the environmental impact.

Section 1801.3(f) recognizes that the intervenor compensation provisions are to be "administered in a manner that avoids unproductive or unnecessary participation that duplicates the participation of similar interests otherwise adequately represented...."

TURN's NOI states that although the Office of Ratepayer Advocates (ORA) represents the interests of all ratepayers, TURN is the only party representing the interests of residential and small commercial customers. TURN also states that it will coordinate with ORA and other intervenors to minimize the duplication of effort.

Local 483 states that it is in a unique position to shed light on the impact of SoCalGas' application because its members will perform the work necessary for the exploration and production of gas at the storage fields. This work allows them to understand the impacts on a first-hand basis. Local 483 also states that it plans to coordinate its participation with other intervenors to prevent the unnecessary duplication of effort.

The planned participation of both TURN and Local 483 in this proceeding should allow for the effective and efficient participation of all groups that have a stake in this proceeding, and their coordination with other parties should avoid unproductive or unnecessary participation that duplicates the efforts of other parties with similar interests.

TURN has provided an itemized estimate of the compensation that it expects to request assuming that evidentiary hearings will be unnecessary, or will be extremely limited. TURN estimates its total compensation at \$36,200.

Local 483 also provided an itemized estimate of the compensation that it expects to request. Local 483 estimates its total compensation at \$24,300.

Section 1804(a)(2)(B) provides that the NOI "may also include a showing by the customer that participation in the hearing or proceeding would pose a significant financial hardship." The NOIs of both TURN and Local 483 have included such showings.

TURN has elected to rely on § 1804(b)(1) to make its showing of significant financial hardship in this proceeding. That subdivision provides in pertinent part:

“A finding of significant financial hardship shall create a rebuttable presumption of eligibility for compensation in other commission proceedings commencing within one year of the date of that finding.”

TURN states that such a finding was made in Rulemaking 02-07-050 in a March 25, 2003 ruling. Since this proceeding was initiated within one year of that finding, the previous finding creates a rebuttable presumption of eligibility for compensation in this proceeding. Since no one responded to TURN’s NOI to rebut the presumption of eligibility, TURN is presumed to be eligible for compensation in this proceeding.

In D.98-04-059 the Commission explained its approach to demonstrating significant financial hardship. Entities which seek eligibility as a customer under § 1802(b)(1)(A) or (b)(1)(B), i.e., participants representing consumers generally and representatives expressly authorized to represent a consumer or group of consumers, respectively, must meet a “cannot afford to pay” standard. This standard requires a customer to provide detailed financial information for the Commission’s review. For entities who seek eligibility as a customer under § 1802(b)(1)(C), an organization authorized by its bylaws, may use a “comparison” test in which the cost of participation is compared to the economic interest of the individual members of the organization. (79 CPUC2d at pp. 650-652.)

Local 483 did not provide detailed financial information to demonstrate that it meets the “cannot afford to pay” standard. Instead, Local 483’s showing compares its cost of participation to the possible savings to SoCalGas’ customers

through Local 483's participation, and the small fraction of savings that Local 483's members may experience. Local 483 has made a showing that its participation would pose a significant financial hardship as defined in § 1802(g). That subdivision states in pertinent part that "significant financial hardship means ... in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding."

Both TURN and Local 483 are eligible for an award of compensation in this proceeding.⁴ This finding of eligibility does not mean that they are automatically entitled to intervenor compensation. Pursuant to § 1804, they must make a substantial contribution to the Commission decision before they are awarded any intervenor compensation.

Therefore, **IT IS RULED** that:

1. The Utility Reform Network (TURN) has met the eligibility requirements of Pub. Util. Code § 1804(a), including the requirement that it establish significant financial hardship.
2. TURN is eligible to file a claim for an award of compensation in this proceeding.
3. The Utility Workers Union of America (Local 483) has met the eligibility requirements of Pub. Util. Code § 1804(a), including the requirement that it establish significant financial hardship.

⁴ As discussed earlier, Local 483's eligibility for an award of compensation in this proceeding depends on the outcome of SCE's application for rehearing of D.03-12-058.

4. Subject to the outcome of the application for rehearing of Decision 03-12-058, Local 483 is eligible to file a claim for an award of compensation in this proceeding.

Dated August 24, 2004, at San Francisco, California.

/s/ JOHN S. WONG

John S. Wong
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Notices Of Intent To Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated August 24, 2004, at San Francisco, California.

/s/ KRIS KELLER

Kris Keller

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.